IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 18.8.2006

United India Insurance Company Limited

...Appellant

versus

Dr.Gurmit Kaur and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr. Justice S.D.Anand.

Present: Mr.Vinod Gupta, Advocate,
for the appellant.

UMA NATH SINGH, J.

Heard on CM No.14690-CII of 2006 in FAO No.3154 of 2005 (application for preponing the date of hearing of the appeal). On due consideration of the application, it is, hereby, allowed and FAO No.3154 of 2006 is taken up for preliminary hearing.

FAO No.3154 of 2005

This FAO arises out of an award dated 20.5.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Faridkot, in MACT Case No.31 of 3.5.2004, awarding a sum of Rs.43,17,150/- in death case of a Super Specialist (Doctor of Medicine), Government Doctor, aged about 43 years.

Admittedly, the owner and the driver of the offending vehicle have contested the claim petition and the appellant-insurer did not file any application under Section 170 of the Motor Vehicles Act, 1988 (for short `the Act'). This is also an admitted position that there is no breach of condition of the policy and we are surprised that the Insurance Company

has filed this FAO on a forbidden ground. Even then learned counsel also urged that the quantum is higher and submitted that the Insurance Company took a plea for granting permission under Section 170 of the Act in the written statement filed before the Tribunal and the Tribunal had been considerate to allow it to contest the case on merit. However, the fact remains that it was contrary to the provisions of the Act as the driver and the owner have contested the claim. We are not inclined to give any such indulgence, particularly in view of the fact that this special enactment is a beneficial piece of legislation. Further, Hon'ble the Apex Court in a judgment reported in (2005) 11 Supreme Court Cases 389 (R.Mannakatti and another versus M.Subramanian and another), has taken a similar view.

Accordingly, the FAO is, hereby, dismissed.

(UMA NATH SINGH)
JUDGE

August 18, 2006
pk

(S.D.ANAND)
JUDGE